



**Minutes for Meeting of Thursday,
September 8, 2005**

Item-1 Call to Order

Chairwoman Leonard called the meeting to order at 5:02 p.m.

Item-2: Roll Call

Present – Chairwoman Dorothy Leonard, Vice-Chair Larry Westfall, Commissioners Lee Biddle, Gil Cabrera (Commissioner Cabrera left the meeting at 6:30 p.m.), Charles H. Dick, Jr., Karen Thomas-Stefano (Commissioner Stefano arrived at 5:30 p.m.)

Staff – Executive Director Stacey Fulhorst, General Counsel Cristie C. McGuire, Program Manager Steve Ross, Senior Investigator Lauri Davis, Financial Investigator Dee Dee Alari, and Executive Secretary Katherine Hunt

Item-3: Approval of Commission Minutes

Approval of August 11, 2005, Ethics Commission Minutes

Motion: Approve
Moved/Seconded: Dick/Westfall
Vote: Unanimous
Excused: Stefano

Item-4: Non-Agenda Public Comment

None

Item-5: Commissioner Comment

Chairwoman Leonard welcomed Steve Ross, the Ethics Commission's new Program Manager.

Item-6: Executive Director Comment

Director Fulhorst briefed the Commission on the following matters:

1. The Lincoln Club has filed a lawsuit in Federal Court challenging two provisions of the City's campaign laws as they apply to general purpose recipient committees: contribution limits and the ban on contributions from organizations. The Lincoln Club is seeking a preliminary injunction and there will be a hearing on October 3. Don Shanahan will be the deputy city attorney defending the case for the City.
2. There is an upcoming Political Attorneys' Association Conference scheduled in San Diego next weekend on September 17 and 18 and she will be participating on a panel that concerns double jeopardy and joint investigations.
3. She will be looking into appearances on local radio talk shows in order to expand the Commission's media outreach program and educate the public on the duties and responsibilities of the Ethics Commission.
4. She will be on vacation from the end of September through the second week of October.

Item-7: General Counsel Comment

None

Item-8: Commission's Legislative Calendar for 2006

Motion: Approve
Moved/Seconded: Cabrera/Biddle
Vote: Unanimous
Excused: Stefano

Item-9: Proposed Amendments to Election Campaign Control Ordinance

Director Fulhorst explained that the 2004 amendments to ECCO were put into practice during the recent special election in July. As a result, the staff has become aware of several housekeeping amendments that are necessary in order

to bring the ordinance in line with the original intent of the Commission and City Council. In addition, the Commissioners previously asked staff to prepare a new provision concerning issues advocacy which would require disclosure of advertisements that mention a candidate's name within a specified time period before a scheduled election, but do not expressly support or oppose a candidate.

She added that the planned course of action for the proposed amendments was to receive input from the Commissioners, bring back a strikeout version with the proposed changes at the next Commission meeting, and then docket the item for Council approval. The staff will also collaborate with the City Attorney's Office before the proposed changes are brought to the City Council.

Director Fulhorst presented the staff report and briefed the Commission on the proposed amendments to the Election Campaign Control Ordinance. In addition to the changes outlined in the staff report, Director Fulhorst advised the Commission of two additional recommended changes:

- a. Current law requires committees to code contributions "P" for primary and "G" for general. Amend this section to add "S" for special and "R" for runoff.
- b. Modify section 27.2975 regarding expenditures supporting ballot measures to exempt general purpose recipient committees. This change will correspond to recent changes in state law.

Commissioner Stefano arrived at 5:30 p.m.

Item-10: Policy Regarding Release of Commission's Investigative Records to Other Law Enforcement Agencies

Director Fulhorst commented that Ms. McGuire had prepared a report addressing the fourth provision of the Commission's proposed policy concerning the release of records to other law enforcement agencies. In addition, Fulhorst presented the results of her research concerning the practices in place at other agencies. She found that San Francisco has never had a request for records from another agency, Los Angeles declines to produce records to any other agency (unless the Commission has made a determination that the matter should be referred to another agency for criminal prosecution) and the FPPC opens all its files to the Attorney General's Office.

Commissioner Dick acknowledged that Ms. McGuire's research indicates that it would be inappropriate to consider the release of records from a closed investigative file in a closed session Commission meeting. He recommended a policy be drafted that included notice to the Commissioners before closed investigation files were released to other agencies.

Director Fulhorst mentioned several possible ways of noticing the Commission regarding the release of closed files. She added she believed there will be few such requests, because most requests will be for files that are still open.

Chairwoman Leonard advised this item will be continued to the next Ethics Commission meeting to give staff additional time to look into the noticing issue.

Item-13: Adjourn to Closed Session

Chairwoman Leonard adjourned the meeting to Closed Session at approximately 6:09 p.m.

Reporting Results of Closed Session

Chairwoman Leonard reported the results of the Closed Session meeting of September 8, 2005

Item 1 - Conference with Legal Counsel (5 potential matters)

Case No. 2005-24 – Alleged Failure Regarding Failure to File Campaign Statements

Motion: Initiate Investigation
Moved/Seconded
Vote: Unanimous

Case No. 2005- 27 – Alleged Failure to Disclose Economic Interests

Motion: Initiate Investigation
Moved/Seconded
Vote: Unanimous

Case No. 2005- 28 – Alleged Contribution in Excess of Limit, and Contribution in the Name of Another Individual

Motion: To Recuse Commissioner Dick
Moved/Seconded
Vote: Unanimous

Motion: Initiate Investigation
Moved/Seconded
Vote: Unanimous
Recused: Dick

Case No. 2005-30 – Alleged Financial Interest in Contract

Motion: Initiate Investigation
Moved/Seconded
Vote: Unanimous

Case No. 2005-31 – Alleged Contribution in the Name of Another Individual

No Reportable Action

Item 2 - Conference with Legal Counsel (6 potential matters)

Case No. 2005-10 – Alleged Contribution in Excess of Limit

Motion: Dismiss
Moved/Seconded
Vote: Unanimous

Case No. 2005-23 – Alleged Failure to Disclose Economic Interests

No Reportable Action

Case No. 2004-03 – Alleged Failure to Disqualify from Municipal Decision Affecting Economic Interests, and Misuse of City Position

No Reportable Action

Case No. 2004-50 – Alleged Disclosure of Confidential Information

No Reportable Action

Case No. 2004-58 – Alleged Contribution in Excess of Limit

No Reportable Action

Case No. 2005-07 – Alleged Failure to Obtain Required Contributor Information

No Reportable Action

Item 3: Conference with Legal Counsel (2 Potential Matters)

San Diego Ethics Commission Audit Report: Friends of Mayor Dick Murphy

Motion: Accept Report and Take no Further Action

Moved/Seconded:

Vote: Unanimous

Excused: Cabrera

San Diego Ethics Commission Audit Report: Kathryn Burton for City Council

Motion: Accept Report and Take no Further Action

Moved/Seconded:

Vote: Unanimous

Excused: Cabrera

Adjournment

The meeting adjourned at approximately at 7:35 p.m.

Dorothy Leonard, Chairwoman
Ethics Commission

Kathy Hunt, Executive Secretary
Ethics Commission

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UPON REQUEST.***